

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Thomas Raymond Firriolo,)	Case No. 6:18-cv-00898-DCC
)	
Plaintiff,)	
)	
v.)	ORDER
)	
David Diamant, Jessica Mitchell,)	
Andrew Beazley, Wael Haider, Kathy)	
Thorsell, Well Care Health Plan, C.T.)	
Corporate System LLC, Home Care)	
Health of the Low Country, Home Care)	
of the Medland, Home Care of the)	
Up-State,)	
)	
Defendants.)	
_____)	

This matter is before the Court on Plaintiff's Complaint. ECF No. 1. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.), this matter was referred to United States Magistrate Judge Paige J. Gossett for pre-trial proceedings and a Report and Recommendation ("Report"). On May 2, 2018, the Magistrate Judge issued a Report recommending that Complaint be dismissed without prejudice and without issuance of service of process. ECF No. 13. Plaintiff filed objections to the Report. ECF No. 20.

LEGAL STANDARD

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the

Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

ANALYSIS

The Report recommends that the Complaint be dismissed because this Court does not have subject matter jurisdiction either through diversity or as a result of a federal question. Plaintiff’s objections consist of allegations that he has been profiled by a member of this Court’s Clerk’s Office and a Deputy United States Marshal. ECF No. 20. Plaintiff also filed a document construed as a notice of intent to file an appeal, which the Court has also reviewed in an effort to afford a pro se Plaintiff with every opportunity to survive summary dismissal. Plaintiff has not addressed the findings of the Magistrate Judge; however, because he filed objections, the Court has conducted a de novo review of the Complaint. The Court agrees with the Magistrate Judge that this Court lacks subject matter jurisdiction over Plaintiff’s claims. As stated in the Report, nothing in the Report or this Order should be construed as preventing Plaintiff from seeking relief in a state court of competent jurisdiction.

CONCLUSION

Accordingly, the Court adopts the Report and Recommendation of the Magistrate Judge and overrules Plaintiff's objections. Plaintiff's Complaint is **DISMISSED** without prejudice and without issuance of service of process.

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.
United States District Judge

October 15, 2018
Spartanburg, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.